

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underling to indicate new matter.

Village of DOLGEVILLE

Local Law No. 2 of the year 2003

Article II – Noise Ordinance for the Village of Dolgeville
(Insert Title)

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
OCT 29 2003
MISCELLANEOUS
& STATE RECORDS

Be it enacted by the VILLAGE BOARD OF TRUSTEES of the
(Name of Legislative Body)

VILLAGE OF DOLGEVILLE as follows:

PER ATTACHED

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2003 of the VILLAGE of DOLGEVILLE was duly passed by the BOARD OF TRUSTEES on October 20, 2003, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County) (City) (Town), (Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____, and was (approved) (not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____, and was (approved) (not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____, as was (approved), (not approved), (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 of the City of _____ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on _____ 20 , became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 of the County of _____ State of New York, having been submitted to the electors at the General Election of November 20, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.

Thomas L. Chmielewski
Clerk of the County legislative body, City, Town or Village
Clerk of officer designated by local legislative body

(Seal)

Date: October 20, 2003

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF HERKIMER

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Norman F. Mastromaro
Signature

Village Attorney
Title

Village of DOLGEVILLE

Date: October 20, 2003

ARTICLE II. NOISE

Section 11-15. Prohibited generally.

It shall be unlawful for any person to either intentionally, knowingly, recklessly, or with criminal negligence, make, continue, or cause to be made or continued, any loud, unnecessary or unusual noise, or any noise which annoys, disturbs or injures, or endangers the comfort, repose, health, peace or safety of, others. The restrictions enumerated in this article are specific enactments to curb and prevent disturbing and unnecessary noises as deemed appropriate for the geographic area encompassing the Village of Dolgeville.

(a) *Exemptions.* Nothing in this local law shall apply to:

1. The State of New York and all municipal subdivisions of the State.
2. Emergency vehicles and vehicles otherwise used, or contracted, for Village purposes including, but not limited to, ambulances, fire, police and garbage-trash collection, and emergency warning devices.
3. Lawn mowers, snowblowers, power saws and power equipment when used for property maintenance purposes between the hours of 7:00 AM and 10:00 PM.
4. Activities previously approved by local permit or formal resolution of the Board of Trustees.

(b) *Person.* *Person*, for purposes of this law, means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.

(c) *Vehicle.* *Vehicle*, for purposes of this law, means a motor vehicle, trailer or semi-trailer, as defined in the Vehicle and Traffic Law, any snowmobile as defined in the Parks And Recreation Law, any aircraft, or any vessel equipped for propulsion by mechanical means or by sail.

(d) *Intentionally, Knowingly, Recklessly, Criminal Negligence.* The words intentionally, knowingly, recklessly and criminal negligence, for purposes of this law, shall have the same meaning as defined in the Penal Law.

(e) *Undefined Words.* Any words not specifically defined herein shall be given their common meaning.

(f) *Construction.* The general rule that a penal statute is to be strictly construed does not apply to this chapter, but the provisions herein must be construed according to the fair import of their terms to promote justice and effect the objects of the law.

Section 11-16. Noise from building operations; hours prohibited.

It shall be unlawful for any person to operate or use any pile drivers, steam shovels, pneumatic hammers, derricks, steam or electric hoists, or other apparatus, equipment or tools, or to engage in any other building operations which is attended with loud or unusual noises, anywhere in the Village, between the hours of 8:00 PM and 7:00 AM the next day.

Section 11-17. Loud Speakers/Sound Amplification Devices

(a) *Prohibited.* Except as may otherwise be hereafter provided, no person, between the hours of 10:00 PM and 7:00 AM the next day, shall maintain or operate, or permit to be maintained or operated, any loud speaker or other sound amplification device attachment connected with a radio, television apparatus, or talking machine, or other primary source of sound, in such manner that such device will project sound outside any building, or out-of-doors, so that the sound is audible for a distance of more than thirty (30) feet from the point of origin.

(b) *Apartments.* No person, between the hours of 10:00 PM and 7:00 AM the next day, shall maintain or operate, or permit to be maintained or operated, any loud speaker or other sound amplification device attachment connected with a radio, television apparatus, or talking machine, or other primary source of sound, in such manner that such device, when operated in a multiple dwelling building, will project sound that can be heard from inside another dwelling within the same building and which annoys, disturbs or injures or endangers the comfort, repose, health, peace or safety of others in the same multiple dwelling building.

(c) *Businesses.* No person, between the hours of 12:00 AM and 5:00 AM, and for purposes of a duly operated commercial enterprise, shall maintain or operate, or permit to be maintained or operated, any loud speaker or other sound amplification device attachment connected with a radio, television apparatus, or talking machine, or other primary source of sound, in such manner that such device will project sound to the outside of any building, or from the outside of any building, so that the sound is audible for a distance of more than seventy five (75) feet from the point of origin.

(d) *Use by church, etc.* Nothing herein contained shall preclude or prohibit the use by a church, or any other religious organization, of loudspeakers or other amplifying devices to broadcast the sound of bells, chimes or carillons, or replicas thereof.

(e) *Use for games, exhibitions, etc.* Nothing herein contained shall preclude or prohibit the reasonable use of loudspeakers, amplifiers or other broadcasting devices in any outdoor sports arena, stadium or public park during the progress of a game, exhibition or other program conducted in a public place and in compliance with other legal regulations applicable thereto, but in no event shall such usage begin before 8:00 AM or continue after 11:00 PM the same day.

Section 11-18. Sound Trucks.

No person, while operating a sound truck vehicle, shall utilize the sound amplifying equipment of such vehicle, without first obtaining an appropriate local permit or approval by formal resolution of the Board of Trustees.

Section 11-19. Noise from the inside of Motor Vehicles.

No person shall operate a motor vehicle with any loud speaker or other sound amplification device attachment connected with a radio, or talking machine, or other primary source of sound, in such manner that such device will project sound outside said motor vehicle so that the sound is audible for a distance of more than ten (10) feet from its point of origin.

Section 11-20. Separate offenses.

The continuation of an offense during any part of an additional twenty four (24) hour period, or periods, following an initial occurrence shall be deemed a distinct and separate violation under this law.

Section 11-21. Commencement and continuation of proceeding.

All procedures authorized for the commencement and continuation of 'petty offenses' under the Criminal Procedure Law shall be applicable for the purposes of this local law.

Section 11-22. Penalties for Offenses.

Any person committing an offense under any provision of this law shall, upon conviction, be guilty of a Violation as defined in the Penal Law and be subject to punishment by a fine not exceeding two hundred fifty dollars (\$250.00) or imprisonment for a period not exceeding fifteen (15) days, or by both such fine

and imprisonment. Nothing herein, however, shall preclude the appropriate Court from imposing a sentence of Unconditional Discharge or Conditional Discharge pursuant to, and as defined in, the Penal Law, or ordering an Adjournment In Contemplation Of Dismissal pursuant to, and as defined in, the Criminal Procedure Law.

Section 11-23. Repeal of existing Ordinance.

'Article II, Noise', of the 1970 Code of Ordinances is hereby repealed and replaced by the within enactment.

Sec. 11-24. Effective Date.

This law shall take effect upon its filing with the Secretary of State.